

Before the  
**Federal Communications Commission**  
Washington, DC 20554

In the matter of:

Request for Review and/or Waiver Related to  
USAC Denial of Funding Requests Filed  
By the Hudson County Schools of Technology

Schools and Libraries Universal  
Support Mechanism

CC Docket No. 02-6

**REQUEST FOR REVIEW AND/OR WAIVER  
BY THE HUDSON COUNTY SCHOOLS OF TECHNOLOGY  
OF A FUNDING DECISION BY THE  
UNIVERSAL SERVICE ADMINISTRATIVE COMPANY**

Pursuant to sections 54.719 and 54.722 of the Commission's rules,<sup>1</sup> the Hudson County Schools of Technology<sup>2</sup> (HCST) hereby respectfully requests a review of a Universal Service Administrative Company (USAC) decision to deny funding of its Funding Year 2017 funding request. For the reasons set forth below, the Wireline Competition Bureau (Bureau) should grant this appeal, and/or any waivers necessary or warranted, and reverse USAC's funding decision.<sup>3</sup>

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<sup>1</sup> 47 C.F.R. § 54.719(b), (c); 47 C.F.R. § 54.722(a).

<sup>2</sup> BEN 15218925.

<sup>3</sup> The associated FRN is detailed in the background section of this appeal.

## **I. Executive Summary**

USAC erred in its decision to deny FRN 1799103413. During PIA, the district informed the reviewer that the Category 2 budget for entity #16058630 would be affected by a Form 500 filing and an appeal affecting a second district Form 471, and requested a delay in processing until the Category 2 budget could be determined. The application was nonetheless denied for being over budget. The district filed an appeal with USAC within 60 of appeal related to the district's other Form 471 for that year, but USAC denied the appeal as late-filed.

## **II. Background**

Funding Year: 2017  
Applicant: New Jersey School Development Authority  
BEN: 15218925  
Form 471 #: 171045331  
FRN: 1799103413

The timeline for this funding request:

Date	Description
5/11/17	HCST filed Form 471 #171045331.
9/9/17	PIA requested C2 reduction.
9/12/2017	FCDL for Form 471 # 171038470, a second C2 application for FY 2017.
9/13/17	HCST requested more time to clear up C2 funding from 2016-17 and 2017-18 applications pending.
10/16/2017	Appeal #77563 created by USAC for Form 471 # 171038470.
10/25/17	PIA issued denial notification for Form 471 #171045331.
11/1/17	HCST responded to denial letter, agreeing to reduce C2 to avoid denial.
11/3/17	FCDL issued denying funding for Form 471 #171045331.
12/6/2017	Form 500 #85897 created.

12/27/2017	Form 500 #85897 processed.
3/27/2018	Appeal #77563 decided.
5/15/18	Appeal #103053 filed for Form 471 # 171045331, FRN 1799103413.
6/24/18	Revised FCDL issued for Appeal #103053.

### **III. Leave to Appeal**

The district requests leave to appeal. This is clearly a case where USAC made several errors, and the Commission precedent is to “grant...petitioners waivers of our filing deadline for appeals because we find...the late-filed appeal would never have been necessary absent an error on the part of USAC.”<sup>4</sup>

In addition, the appeal decision was issued during the weekend. This appeal is filed within 60 days of receipt of the notification, on the first working day after it was issued.

### **IV. EPC Was Malfunctioning at the Time of Denial**

The reason for the appeal for Form 471 #171045331 was an error created by the EPC system. The applicant should not be punished because of a failure of the EPC system which took several months to correct.

### **V. Category 2 Budgets Spread Across Years**

Due to the multi-year nature of the E-Rate application process, forcing the district to reduce the C2 budget for the application did not allow the district to fully utilize C2 funding. USAC should not force districts to reduce funding until all the information affecting the C2 budget is available. In particular, the district could not know it’s remaining funding because a

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<sup>4</sup> Animas Order, DA 11-2040.

2017-2018 application was held up in appeal, and the district needed to file a Form 500 for 2016-2017 funding. The Form 500 could not be filed until invoices had been finalized, which did not happen until after Form 471 #171045331 had been denied.

#### **VI. District Requested Budget Modification**

The district submitted a budget reduction request before the FCDL was issued. This request was ignored. The Commission directed “USAC to permit such corrections to be made until USAC issues the FCDL for an applicant”<sup>5</sup>

#### **VII. Extension Request Ignored**

The applicant requested extra time to correctly determine the Category 2 budget for that location. At the time that the application was denied, Form 471 #171038470 was tied up in an appeal, the resolution of which affected the C2 budget for Form 471 # 171045331. The only response to the district’s request was a Denial Notification.

#### **VIII. Appeal to USAC Timely Filed**

Since the appeal for Form 471 #171045331 was dependent on the pending appeal for 471 #171038470, the district could not file the second appeal until the first was decided. The second appeal was filed within 60 days of USAC’s decision on the first appeal.

#### **IX. FCC guidelines do not call for denial of requests over C2 budget, only reduction**

The Commission has not directed USAC to deny funding requests when the Category Two budget is exceeded, only that applicants cannot receive more than their cap.<sup>6</sup> The correct

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<sup>5</sup> E-Rate Correction Deadline Order, FCC 11-60.

<sup>6</sup> E-Rate Modernization Order, FCC-14-99A1.pdf.

step for USAC in this case should have been to reduce the funding approval to whatever amount USAC determined was available.

## **X. Conclusion**

For the foregoing reasons, the Bureau should direct USAC to approve funding for FRN 1799103413. The Bureau should also grant a waiver of any other rules as necessary to effectuate a grant of this appeal.

Respectfully submitted by:



Daniel E. Riordan  
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Fax: 732-530-0606  
Email: dan@on-tech.com

August 24, 2018

## **List of Exhibits**

Exhibit A	PIA response requesting additional time
Exhibit B	Appeal #77563
Exhibit C	Denial notification response
Exhibit D	Denial notification response attachment ("Adjust C2 request.docx")
Exhibit E	Form 500 #85897
Exhibit F	Appeal #103053

# Exhibit A

Records / FCC Forms 471

## HCST New Bldg C2 - #171045331



RESPOND TO INQUIRIES

APPLY SUMMER OR WINTER DEF...

Summary

Funding Requests

Review Inquiries

Connectivity Information

Discount Calculation

Entity Information

News

Related Actions

### Pending Inquiries

Read	Notice	Name	Outreach Type	Assigned By	Title	Phone #	Assigned Date ↓	Due Date	Extn.	Status
No Pending Inquiries.										

### Submitted Inquiries

Name	Outreach Type	Answered By	Assigned Date ↓	Answered Date
Category Two Budget	Denial Notification	Dan Riordan	10/25/2017 3:45 PM EDT	11/1/2017 3:52 PM EDT
Category Two Budget	Regular 15-Day	Dan Riordan	9/9/2017 9:28 AM EDT	9/13/2017 11:42 PM EDT
Category Two Budget	Summer 15-Day	Dan Riordan	8/9/2017 10:48 AM EDT	9/13/2017 11:17 PM EDT

#### Category Two Budget

Issue

USAC's Program Integrity Assurance (PIA) team is currently reviewing your FCC Form 471 application, and we have identified an issue that we need you to help us resolve.

What is the issue?

The Category Two budget for #16058630 - High Tech High School is \$161,449.91, but the Category Two funding requested for this entity is \$256,053.50. This is an issue because the entity's Category Two funding requests exceeds its budget by \$94,603.59. (For reference, please read USAC's information on Category Two budgets at <http://www.usac.org/sl/applicants/step03/category-two-budget.aspx>).

Please read all of the questions, descriptions, and requests below. Provide responses that most accurately reflect the status of the entities listed above. Please give enough detail, insight, and clarity to help the reviewers fully understand your specific situation.

Check the boxes for statements that apply, and where applicable, type the information requested into the text boxes. If your information is too detailed for the text box, or if you need to provide additional documentation, click "Browse" to upload relevant files or documentation.

Question(s)

This page will timeout after an extended period of inactivity. Please periodically save your work using the 'Save & Close' button below. You may then use your browser's 'Back' button to return to your work.

Your response to PIA's questions:

#	Question	Response
1	Listed in the attached spreadsheet are the applicable pending and/or committed Category Two Funding Request Number(s) (FRNs):  Sample Document: <a href="#">Category Two Budget Spreadsheet - hudson county schools.xlsx</a>	

2	Please complete the questions below and provide the information requested:	---
a	Would you like to reduce the pre-discount eligible cost allocation for the entity?	Yes ▼
	If Yes, you want to reduce the FRN line items to bring your entity within budget, please provide the FRN, line item number, and new eligible cost of the entity.	We are waiting for the completion of billing for 2016-2017, so that we can know how much C2 remains
b	Would you like to remove the entity as a recipient of services?	No ▼
	If Yes, you want to remove this entity as a recipient of service from the FRNs/line items, please provide the FRN and line item number.	
c	Would you like to cancel the FRN(s)?	No ▼
	If Yes, please provide the FRN number you want to cancel.	
3	If the attached list includes committed Category Two FRN(s), have you submitted an FCC Form 500 to cancel or reduce the committed Category Two FRN(s)?	No ▼
a	If Yes, please provide us with the FCC Form 500 number and the FRN Number that is being canceled or reduced.	We plan to file once invoicing for 2016-2017 is complete.
b	If No, please confirm that you do not plan on submitting an FCC Form 500 to cancel or reduce the committed Category Two FRN(s).  Check the box.	<input type="checkbox"/>
4	If you would like to provide any additional information about these issues that have not been addressed above:  Use the text box to type information, or upload additional documentation using the "Browse" button.	Please put this FRN on hold until FY2016-2017 disbursements are complete.

CLOSE

## Exhibit B

[Records](#) / [Appeals](#)

### FCC Form 471 Category Two Review - #77563

[Summary](#) [Associated FRNs](#) [News](#) [Related Actions](#)

In-Review      Outreach      Wave Ready      **Committed**

#### Appeal Information

[View Status \(-\)](#)

**Status** USAC issued a revised funding decision on 03/27/2018. Check your Newsfeed for the decision.

**Funding Year** 2017

**Submitting Organization** HUDSON COUNTY SCHOOLS OF TECHNOLOGY (BEN: 122711)

**Created By** USAC

**Created On** 10/16/2017 3:06 PM EDT

#### Main Contact

**Name** Nicholas Fargo

**Email** nfargo@hcstonline.org

**Phone Number** 201-854-3865

#### Narrative

An appeal record has been created on your behalf due to a potential system error that may have impacted the funding amount for the submitted Category Two funding request.

#### Appeal Details

**Decision appealed by applicant**

If you wish to modify or cancel your appeal, or, if you have any questions about your appeal, please contact the E-rate Program's Client Service Bureau (CSB) at (888) 203-8100.

[View Supporting Documentation \(-\)](#)

#### Supporting Documentation

Document ID	Document	Description	Upload Stage	Uploaded By	Uploaded On
No Supporting Documents have been uploaded					



## Exhibit C

Records / FCC Forms 471

### HCST New Bldg C2 - #171045331

RESPOND TO INQUIRIES

APPLY SUMMER OR WINTER DEF...

Summary

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Connectivity Information

Discount Calculation

Entity Information

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Related Actions

#### Pending Inquiries

Re ad	N oti ce	Name	Outreach Type	Assigned By	Title	Phone #	Assigned Date	Due Date	Extn.	Status
No Pending Inquiries.										

#### Submitted Inquiries

Name	Outreach Type	Answered By	Assigned Date	Answered Date
<a href="#">Category Two Budget</a>	Denial Notification	Dan Riordan	10/25/2017 3:45 PM EDT	11/1/2017 3:52 PM EDT
<a href="#">Category Two Budget</a>	Regular 15-Day	Dan Riordan	9/9/2017 9:28 AM EDT	9/13/2017 11:42 PM EDT
<a href="#">Category Two Budget</a>	Summer 15-Day	Dan Riordan	8/9/2017 10:48 AM EDT	9/13/2017 11:17 PM EDT

#### Category Two Budget

##### Issue

It was determined that the following FRNs will be denied because you have not authorized sufficient modifications to this entity's Category Two funding requests in order for the entity to no longer exceed its budget of \$161,449.91. (For reference, please read USAC's information on Category Two Budgets at <http://www.usac.org/sl/applicants/step03/category-two-budget.aspx>).

FCC Form 471 Application Number	FRN
2017 - #171045331 - \$126,587.40 - Pending - This FRN will be denied	1799103413
2016 - #161049211 - \$83,343.00 - Funded	1699112159
2015 - #1038672 - \$37,397.90 - Funded	2828526

Since this entity's pending and/or committed Category Two funding exceeds its budget by \$85,878.39, the above listed FRN(s) are denied.

If you disagree with the modifications listed above and you have alternative documentation supporting your original request, please submit this documentation to us. If you would like to provide any additional explanation to support your position, type your explanation and attach the explanation and/or documentation into your response by using the Add Document button. If you agree with the proposed action, click the "Submit" button to clear this item from your Pending Inquiries.

[Adjust C2 request](#)

CLOSE

## **Exhibit D**

Please reduce FRN Line Item #1799103413.001 by \$85,878.39 to \$38,873.61.

# Exhibit E

Records / FCC Forms 500

## HCST 1617 C2 - #85897

[Summary](#) [Associated FRNs](#) [News](#) [Related Actions](#)

In-Review

Outreach

Wave Ready

Committed

### Funding Commitment Adjustment Request Form

#### FCC Form 500 Details

[View Status \(-\)](#)

**Status** USAC issued a revised funding decision on 12/27/2017. Check your Newsfeed for the decision.

**Funding Year** 2016

**Submitting Organization** HUDSON COUNTY SCHOOLS OF TECHNOLOGY (BEN: 122711)

**Created By** MARK SELTZER

**Created On** 12/6/2017 8:14 AM EST

#### Main Contact

**Name** MARK SELTZER

**Email** markseltzer@trmgj.com

**Phone Number** 610-280-3810

#### Cancel FRN Request

FRN	Application Number	Application Nickname	FRN Nickname	Category of Service	SPIN	SPIN Name
1699112159	161049211	HCST C2 1617	Internal Connections	Category 2	143004427	Dyntek Services, Inc.

**Narrative:** This FRN is being cancelled to make the funds available for another funding year.

[View Supporting Documentation \(+\)](#)

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## Exhibit F

[Records](#) / [Appeals](#)

### 17-18 C2 - #103053

[Summary](#)

[Associated FRNs](#)

[Review Inquiries](#)

[News](#)

[Related Actions](#)

In-Review

Outreach

Wave Ready

Committed

#### Appeal Information

[View Status \(+\)](#)

**Funding Year** 2017

**Submitting Organization** HUDSON COUNTY  
SCHOOLS OF  
TECHNOLOGY (BEN:  
122711)

**Created By** Dan Riordan

**Created On** 5/15/2018 4:16 PM EDT

#### Main Contact

**Name** Dan Riordan

**Email** dan@on-tech.com

**Phone Number** 732-530-5435

#### Narrative

Please reopen the PIA process for this FRN. At the time of denial, I informed the reviewer that we were waiting on two USAC decisions: the funding for Form Form 471 #171038470, and the cancellation of Form 471 #161049211. As of 3/27/18, the pending appeal for Form 471 #17103874 has been decided, and Form 471 #161049211 has been cancelled, so we can now move ahead with the C2 budget for this FRN. It appears that Form 471 #161049211 has been cancelled.

Please reopen the PIA process for this FRN.

Thank you.

#### Appeal Details

**Decision appealed by applicant** Revised Funding Commitment Decision Letter

If you wish to modify or cancel your appeal, or, if you have any questions about your appeal, please contact the E-rate Program's Client Service Bureau (CSB) at (888) 203-8100.

[View Supporting Documentation \(+\)](#)